

[This Opinion was filed, under seal, on February 27, 1998, and it was then provided that, by April 1, 1998, counsel would file redacted versions to identify any confidential, proprietary business information which should not be disclosed to the public. The redacted versions have been filed under seal, and, as a result, several brief modifications have been made in the following Opinion to remove the confidential, proprietary business information which was identified. Several other minor changes have been made as well. The February 27, 1998 Opinion remains under seal as the basis for the final judgment entered in this case.]

This post-award bid protest is before the court on cross-motions for judgment on the administrative record. Plaintiff Candle Corporation ("Candle") seeks to set aside the United States Department of the Army, Defense Communications Electronics Evaluation and Testing Activity's ("DCEETA") decision to award a software contract to defendant-intervenor Boole & Babbage, Inc. ("Boole"). Plaintiff maintains that the award was improper because Boole's proposal did not comply with "minimum essential requirements" in the solicitation. For the reasons stated below, it is determined that the award was not in accordance with law. However, because plaintiff has not shown that it was prejudiced, it is not entitled to relief.

BACKGROUND

The procurement at issue involves MQSeries system management software. MQSeries is messaging software developed by IBM which allows business applications to integrate and communicate across desktop and mainframe systems, overcoming inconsistencies with different network protocols and all major commercial platforms. While security considerations preclude a description of DCEETA's MQSeries system, the materials in the administrative record provide an example of how the software can be used. A state agency could use MQSeries to process the renewal of driver's licenses. As a customer waits at a local department of motor vehicles office, a clerk sends a message by computer to state headquarters requesting approval of renewal of the customer's license. The message enters a centralized queue and is posted in individual queues for review by different applications. Each application performs a different function, such as research for outstanding tickets, arrest warrants, etc. If the customer's record is clean, each application will send an "okay" and approval will be provided to the local clerk. Administrative Record ("AR") at 108.

On September 15, 1997, DCEETA sent a request for information ("RFI") to four software companies, Boole, Candle, Tivoli Systems ("Tivoli"), and BMC Software, Inc. ("BMC"), seeking information about products which would allow DCEETA to manage and monitor its MQSeries system. One question asked was, "Does the system provide the functionality to edit the contents of an individual message [in a queue]?" AR at 20. The use of queues in messaging is described in a source referenced in the record as follows:

Queuing is a NO-CONNECTION communication choice. Queuing partners are not directly connected; they communicate only through queues.

Queuing is a *time adaptation* technique used for saving information until the intended message receiver is ready to receive it, be that just nanoseconds, milliseconds, or many minutes away. Entities are indirectly communicating, and each is operating at its own preferred or maximum speed unaffected by the others.

Burnie Blakeley, Harry Harris & Rhys Lewis, *Messaging & Queuing Using the MQI* 39 (1995) (emphasis in original). The same source defines "message" as "header" plus "user data." *Id.* at 377. The header consists of message attributes which help to control the delivery of the message to its destination queue, such as the target queue name, the length of user data, message priority, etc. *Id.* An authority

cited by plaintiff defines the header as "[t]hat part of a message that contains the transmission-control information preceding the text." Charles J. & Roger J. Sippl, *The Computer Dictionary and Handbook* 319 (3d ed. 1980).

Each potential bidder responded to the RFI, with Boole and BMC responding jointly. Only Candle stated that its product could edit the contents of messages in a queue. The other potential bidders stated that their products could not do so.

On October 21, 1997, DCEETA issued a request for proposals ("RFP") to Boole, Candle, and Tivoli for a system to manage and monitor its MQSeries system. The RFP indicated that the procurement was a "commercial item" acquisition. *See* 48 C.F.R. Part 12 (1997). Section B of the RFP contained contract line items for perpetual software licenses, maintenance for fiscal year 1998, and options for maintenance for fiscal years 1999-2001. Section M indicated that the contract would be awarded to the offer representing the best value to the government, considering cost and technical factors. However, section M also stated that "[